



STATE OF NEW HAMPSHIRE  
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

AMERICAN FEDERATION OF STATE, COUNTY  
AND MUNICIPAL EMPLOYEES, AFL-CIO

Complainant

v

DECISION NO. 84-12

HILLSBOROUGH COUNTY COMMISSIONERS AND  
ROBERT CURRAN In His Capacity as  
Administrator of the County Nursing Home  
Respondents

APPEARANCES

Representing the American Federation of State, County & Municipal  
Employees

Gary Foster, Administrator  
Joseph K. Reardon Field  
Representative  
James Gray, President  
William B. Treaty

Representing Hillsborough County Commissioners and Robert Curran Administrator

Alan Hall, Esq., Counsel  
Patricia C. Roody, Director of  
Personnel Richard W. Roulx, County  
Administrator  
Robert Curran, administrator of Nursing  
Home

Also present:

Warren D. Hastings., Manchester Union Leader

BACKGROUND

The AFSCME, Council 68 (Union) filed improper practice charges against the Hillsborough County Commissioners (County) and Robert Curran, Administrator of the Hillsborough County. Nursing Home on July 29, 1983 alleging a breach of RSA

273-A:5 I (b) "To dominate or to interfere in the formation or administration of any employee organization".

On July 27, 1983 AFSCME representative Joseph K. Reardon visited with members of the staff of the County Nursing Home during their lunch period.

Mr. Reardon represents AFSCME Local- 2715, the exclusive bargaining agent for the employees of the nursing home. Mr. Curran, Nursing home Director, accompanied by Officer Wheeler of the Goffstown Police, ordered Mr. Reardon to leave the premises and he did. AFSCME alleges that they have a right of access to their unit employees under PELRB's rules (3.3b) and that Curran is interfering in the administration of the union and, therefore, violating RSA 273 A:5 I (b).

The County denies any violation of RSA 273 and, Curran did order Mr. Reardon admitting that Mr. Reardon to leave the nursing home and called the police only after Mr. Reardon refused to leave. Further, the county argues that it's nursing home employees are paid during their 30 minute meal period because they are subject to call, which is why personnel policies require them to eat in the dining hall, and that the dining hall is a private facility not open to the public nor available for public meetings. The county further argues the ELRB former rule 3.3(b) is now 303.03 (b) refers to "employee organizations listed on the ballot" and merely refers to the election process and since no election is currently being held the rule is not applicable. In addition, the county argues, to allow outsiders who are not employees to have access to non-public areas could adversely effect "the public employer's maintenance of efficiency and discipline of it's staff".

A hearing was held at PELRB's office in Concord, N.H. on October 13, 1983 at which all parties were represented.

#### FINDINGS OF FACT

There was no dispute on the above basic facts. At hearing, testimony was taken which established additional facts :

- 1) The County had offered to allow access at all meal times and coffee breaks except between 11:00 a.m. and 12:00 noon; union rejected this ;
- 2) The removal of Mr. Reardon from the premises by police action could serve to embarrass him and cause the union to suffer in the employees minds
- 3) The Union has several employee representatives who are present during the various meal times/coffee breaks, including the President, Treasurer, Secretary, Chief Steward and other Stewards at other times.
- 4) Generally, the Union and management have had good working relationships;

#### RULINGS OF LAW

In requiring access to employees during election periods of law, through the PELRB, is merely insuring that fair play and reasonableness govern the process of deciding whether or not the employees wish to be represented by any given Union. After the decision is made in the affirmative we must do no less. However, the PELRB must be cognizant of the fact that a continuing campaign is not being conducted. Rather, the nature of representation must be acknowledged and we must adopt reasonable methods of insuring that all employees have access to a Union representative for purposes of carrying on Union business.

DECISION

A Union representative needs access to the employees during the eating hours and coffee breaks for at least a short period to insure that all employees may approach him/speak with him about union (and work) related business. We hereby order that a union representative (such as Mr. Reardon) be allowed access to employees during all dining periods and during all coffee break periods. The specific times and places may be arraigned by the parties.

In view of the obvious good relations of the parties and the mutual efforts to resolve these problems the PELRB declines to find a ULP in this case.



Robert E. Craig, Chairman

Robert E Craig, Chairman

Signed this 21<sup>st</sup> day of February, 1984

By unanimous vote. Members Robert Steele and Russell Verney, present and voting. Also present, Evelyn C. LeBrun, Executive Director.